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LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
JUSTICE SYSTEM INTEGRITY DIVISION

JACKIE LACEY • District Attorney
JOHN K. SPILLANE • Chief Deputy District Attorney
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May 5, 2017

Captain Christopher Bergner
Los Angeles County Sheriff's Department
Homicide Bureau
One Cupania Circle
Monterey Park, California 91755

Re: Deputy Involved Shooting of Oscar Romero
J.S.I.D. File #15-0382
L.A.S.D. File #015-05866-1577-013

Dear Captain Bergner:

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the July 29, 2015, fatal shooting of Oscar Romero by Deputy Steven Huerta of the Los Angeles County Sheriff's Department. Our detailed analysis of this incident is contained in the attached memorandum.

Very truly yours,

JACKIE LACEY
District Attorney

SHANNON PRESBY
Head Deputy District Attorney
Justice System Integrity Division

c: Deputy Steven Huerta, #[redacted]

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MEMORANDUM

TO: CAPTAIN CHRISTOPHER BERGNER
Los Angeles County Sheriff's Department
Homicide Bureau
One Cupania Circle
Monterey Park, California 91755

FROM: JUSTICE SYSTEM INTEGRITY DIVISION
Los Angeles County District Attorney's Office

SUBJECT: Officer Involved Shooting of Oscar Romero
J.S.I.D. File #15-0382
L.A.S.D. File #015-05866-1577-013

DATE: May 5, 2017

The Justice System Integrity Division (JSID) of the Los Angeles County District Attorney's Office has completed its review of the July 29, 2015, fatal shooting of Oscar Romero by Los Angeles County Sheriff's Department (LASD) Deputy Steven Huerta. We have determined that Deputy Huerta acted in lawful self-defense when he used deadly force against Oscar Romero.

The following analysis is based upon a series of reports prepared by LASD Homicide Bureau. JSID was notified of this shooting at 1:20 a.m., on July 30, 2015. The District Attorney Response Team responded to the location of the shooting where they received a briefing and "walk-through" of the scene. No compelled statements were considered for purposes of this analysis.

FACTUAL ANALYSIS

In July 2015, Oscar Romero lived at [redacted] with several family members including his [redacted] his [redacted] and [redacted] According to [redacted] Oscar had a history of becoming extremely belligerent and assaultive with his family and neighbors when he drank alcohol. [redacted] has seen Oscar assault [redacted] in the past.[1]

On July 29, 2015, Oscar was drinking. According to [redacted] Oscar began drinking at approximately 1:00 p.m. According to [redacted] Oscar was drinking "Locos."[2] Sometime during the early evening Oscar physically forced his way into [redacted] and [redacted] room by "crashing through" a "drilled in" bookshelf that acted as a barrier between rooms, and aggressively

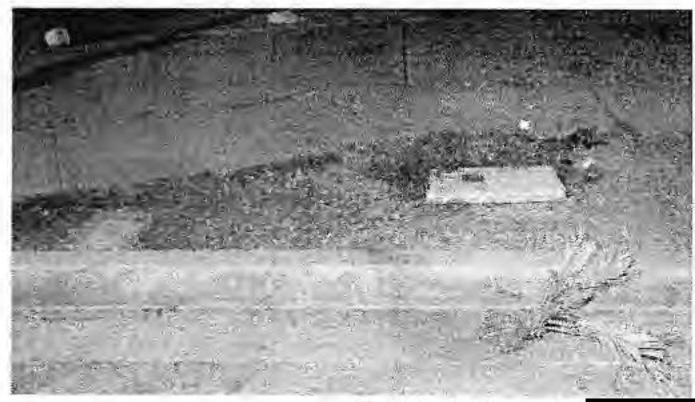
[1] Because the decedent and his family share a surname, first names will be used to identify these individuals.

[2] Four Locos is a malt liquor based alcoholic caffeinated energy drink with added guarana and taurine. It contains roughly 12% alcohol by volume. Sale of Four Locos has been banned in five states.

confronted [redacted] and [redacted] Oscar was also heard breaking objects inside the house. [redacted] called 9-1-1 at 10:43 p.m., reporting that his [redacted] was "going crazy" and breaking objects inside the house. He also indicated that his [redacted] was inside the house and unless the police responded, Oscar was "going to hurt somebody."

Shortly thereafter, several LASD deputies arrived at the location. The lights were off inside the house. Deputy Huerta knocked on the door but nobody answered. Deputy Lefevre noticed debris littering the front yard of the residence. After a few minutes of knocking and receiving no response, the deputies left the location.







Debris in front of [redacted]

According to [redacted] while the deputies were present Oscar was silent, but once the deputies left the location Oscar began breaking things again. At 11:22 p.m., [redacted] called 9-1-1 a second time. He reported that Oscar was breaking all the windows of the house. Deputies returned to the scene.

Statement of Deputy Ricardo Vega

Deputy Vega did not respond to the first 9-1-1 call but heard it over the radio. He responded to the second 9-1-1 call as an assisting deputy. Before approaching the location, the responding

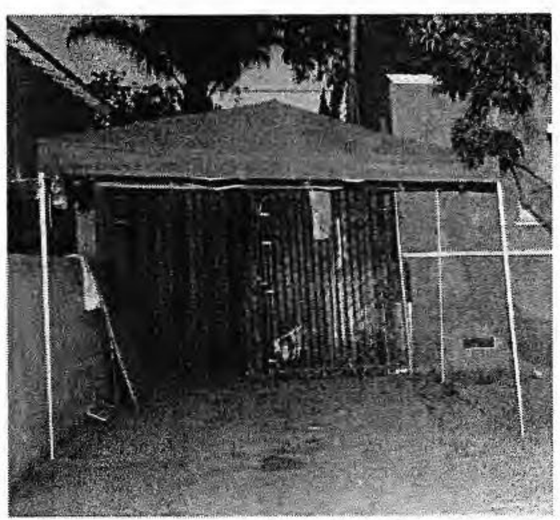
deputies determined that Deputy Vega would deploy the Taser if necessary and Deputy Huerta would attempt to make contact with the subject.

Huerta and Vega walked through the front yard toward the front door. Also present was Deputy [redacted] Vega saw damage to the front of the location, including a smashed window, and heard noises coming from inside the house.



Broken front window

Suddenly, the front door opened. A man looked out, appeared to see the deputies, and then shut the door. Believing that the man who shut the door might be the person who was the subject of the call, and that he might attempt to flee out of a side window, Vega moved toward the driveway. A locked gate prevented access to the rear of the house.



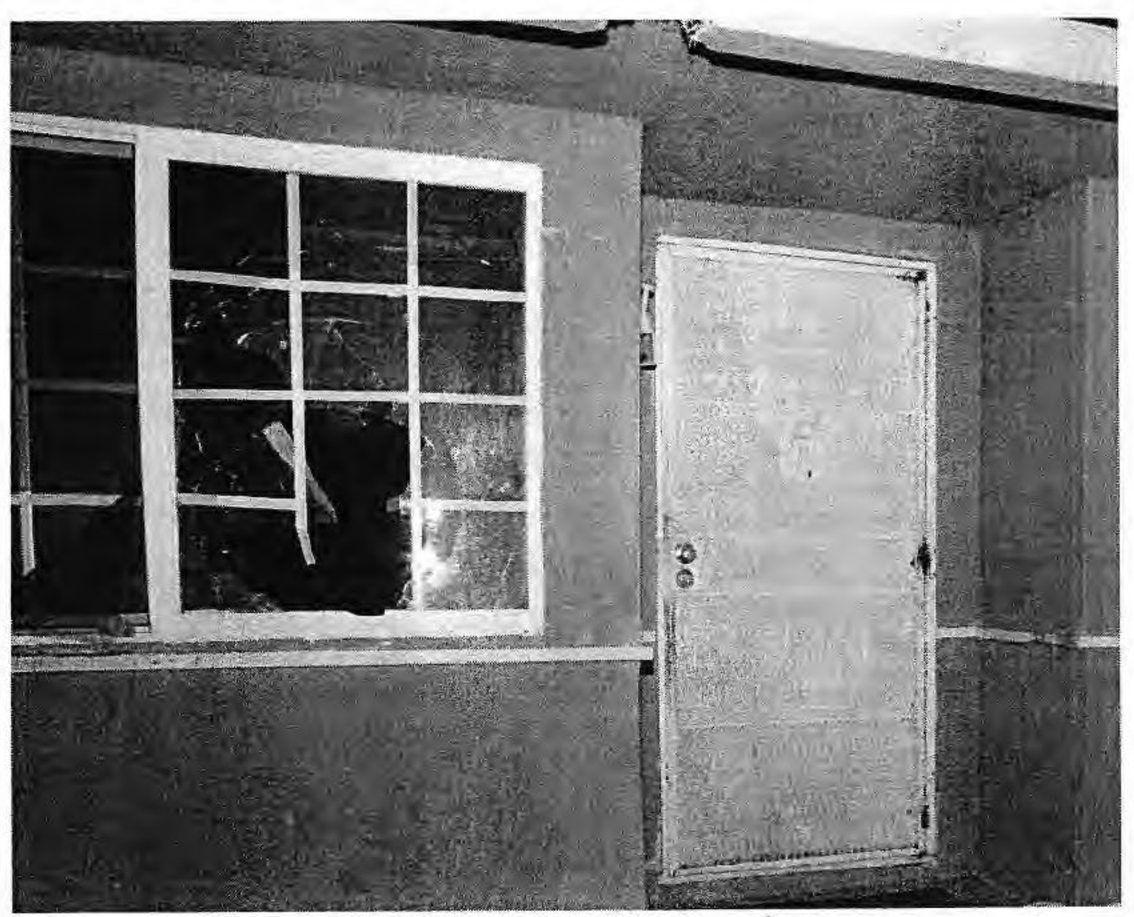
Driveway and gate

Vega observed a man [redacted] on the inside of the gate. Because neither the deputy nor [redacted] had keys to unlock the gate, Vega directed [redacted] to jump over the fence and he was escorted to a patrol car.

Huerta knocked on the front door and almost immediately, Oscar emerged carrying some type of metal object in his hand. Vega saw Oscar attempt to hit Huerta with the metal object on his face or head using a "tomahawk" strike. Vega heard a pop, which he thought was the discharge of a Taser. Vega began to broadcast the deployment of a Taser when one of the other deputies corrected him and advised him that it was a "998."[3]

Statement of Deputy [redacted]

[redacted] responded to the second 9-1-1 call as an assisting deputy. Before approaching the house, the deputies discussed a division of labor. [redacted] was designated to deploy the Taser if necessary. [redacted] Huerta and Vega approached the house. [redacted] saw a man standing in the front doorway (Oscar Romero). Oscar screamed, "Get the fuck out of here. Fuck you guys. What do you want? I'm going to fuck you up!" Oscar's tone was very aggressive. Oscar slammed and locked the external metal security door.


Front window and security screen door

[redacted] called into the house. He identified the deputies by stating, "Hey, it's the Sheriff's Department" and asked Oscar to exit the residence, to no avail. [redacted] and other deputies

[3] 998 is the Sheriff's radio code used to report a deputy involved shooting.

became aware that another man was in the driveway area ([redacted]. [redacted] was directed to jump over the fence and was led toward one of the patrol cars.

At that point [redacted] and Huerta were near the front of the house. [redacted] was slightly east of the front door and Huerta was slightly to the west of the front door. [redacted] estimated that they had been on the property less than 30 seconds, when the front door suddenly burst open and Oscar exited carrying a metal stick or pipe in his hand. Oscar held the object over his head as though he was going to strike. Oscar moved immediately toward Huerta with the metal stick. [redacted] fired his Taser at Oscar and saw Oscar immediately fall to the ground.



Taser unit and wires

[redacted] initially believed that Oscar had fallen as a result of the Taser deployment. Huerta advised him that he had actually shot Oscar. At that point, [redacted] backed away from the house and dropped the Taser near the front sidewalk.

Statement of Deputy Steven Huerta

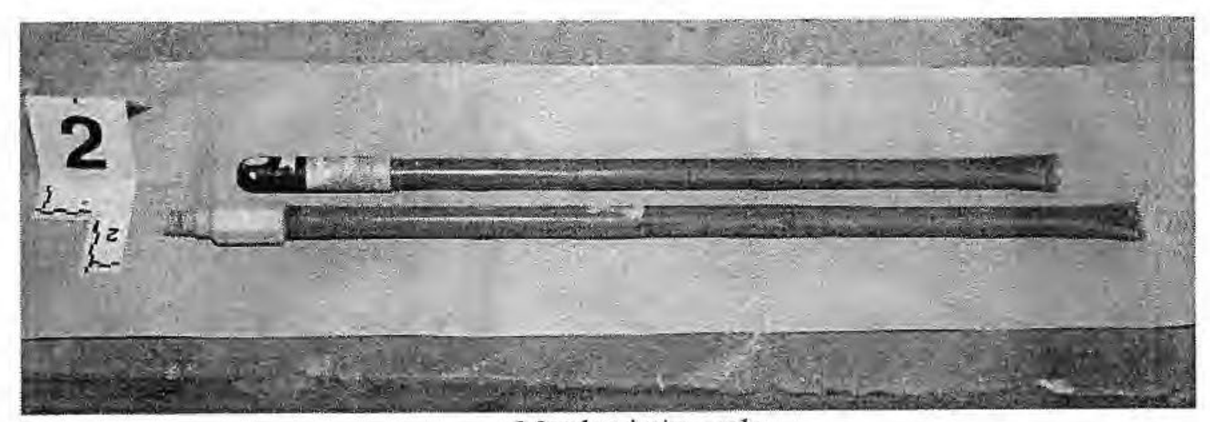
Huerta responded to the first 9-1-1 call. The nature of the call was a family dispute with the suspect being extremely intoxicated. The reporting person indicated that he did not want to be contacted. When Huerta arrived at the residence, it was completely dark. He remained for a

short period of time, but hearing no ongoing disturbance, departed the residence. He did not make contact with any of the occupants of the residence at that time.

Approximately 30-35 minutes later, a second 9-1-1 call was received adding additional information that the suspect was breaking objects inside the house. It also advised that the reporting person agreed to be contacted.

When Huerta arrived the second time, the condition of the front of the house was changed. Planters were knocked over and the front window of the residence was shattered. As he and [redacted] approached the house, the front door opened and a man (Oscar) emerged. Oscar yelled, "What the fuck do you want? Just wait, I'm going to fuck you up. I'm going to kick your ass." Oscar then slammed the metal security door. Huerta checked the security door and found it to be locked.

A few moments later, the deputies realized that there was a person in the driveway ([redacted]). Moments later, the front door opened and Oscar emerged with an object in his hand raised over his head. Huerta believed that the object was a metal pipe. Oscar rushed towards Huerta and struck him with the object on his left upper arm. Huerta stepped to the side as Oscar raised the object to strike again. To prevent himself from being struck, Huerta discharged one round from his service weapon. Oscar immediately fell to the ground.



Metal painting pole

Huerta broadcast that a deputy involved shooting had occurred and requested an ambulance. Oscar succumbed to his injuries. The object he used to strike Huerta was recovered and determined to be a metal painting pole.

An autopsy was conducted by Deputy Medical Examiner Odey Ukpo, M.D. The cause of death was a single gunshot wound to the head. The path of the bullet was front to back, left to right and upward.

LEGAL ANALYSIS

California law permits the use of deadly force in self-defense or in the defense of another if it reasonably appears that the person claiming the right of self-defense actually and reasonably

believed that he was in imminent danger of great bodily injury or death. People v. Randle (2005) 35 Cal.4th 987, 994; People v. Mercer (1962) 210 Cal.App.2d 153, 161.

In protecting himself or another, a person may use that amount of force which he believes reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent imminent injury. CALCRIM No. 505.

In California, the evaluation of the reasonableness of a police officer's use of deadly force employs a reasonable person acting as a police officer standard. People v. Mehserle (2012) 206 Cal. App. 4th 1125, 1146 (holding that California law "follows the objective 'reasonable person' standard—the trier of fact is required to evaluate the conduct of a reasonable person in the defendant's position [citations omitted] . . . the jury should consider all relevant circumstances surrounding the defendant's conduct. This enables the jury to evaluate the conduct of a reasonable person functioning as a police officer in a stressful situation—but this is not the same as following a special 'reasonable police officer' standard."

"The 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than the 20/20 vision of hindsight...The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation." Graham v. Connor (1989) 490 U.S. 386, 396-397.

Where the peril is swift and imminent and the necessity for action immediate, the law does not weigh in too nice scales the conduct of the assailed and say he shall not be justified in killing because he might have resorted to other means to secure his safety. People v. Collins (1961) 189 Cal.App.2d 575.

CONCLUSION

When the deputies responded to the second 9-1-1 call, they were confronted almost immediately by Oscar Romero, who exited the residence behaving aggressively and threatened to physically harm them. Oscar abruptly reentered the house and locked the security screen door. Within a few moments, Oscar reemerged from the house and attacked Deputy Huerta, striking him once and raising the metal pole to strike him again. As Oscar raised the pole to strike again, Huerta was placed in a situation where he was forced to make a split-second decision. Given the threats made by Oscar and his sudden physical attack, Huerta's decision to use deadly force to end Oscar's attack was objectively reasonable.

Accordingly, we find that Deputy Steven Huerta acted in lawful self-defense when he used deadly force against Oscar Romero. We are closing our file and will take no further action in this matter.